

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUDGE KEENAN
10 CIV 7649

KARAH PREISS,

VERIFIED COMPLAINT

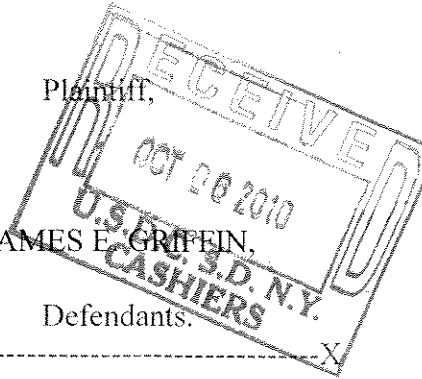
Plaintiff,

-against-

PLAINTIFF DEMANDS
TRIAL BY JURY

PRECISION ELEVATORS and JAMES E. GRIFPEIN,

Defendants.



Plaintiff, by her attorneys, SMILEY & SMILEY, LLP, complaining of the defendants, hereinafter alleges upon information and belief at all times relevant hereto, as follows:

JURISDICTION

1. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. Section 1332, in that this is an action by and between citizens of different States. The amount in controversy exceeds Seventy Five Thousand (\$75,000.00) Dollars as to the plaintiff, exclusive of interest and costs.

2. Plaintiff demands a trial by jury on each of the causes of action pleaded herein.

THE PARTIES

3. Plaintiff, KARAH PREISS, resides at 50 Sutton Place South, New York, New York.

4. Defendant, PRECISION ELEVATORS, was and still is a foreign corporation duly organized and existing under and by virtue of the laws of the State of New Jersey with a principal place of business located at 147 North Michigan Avenue, Kenilworth, New Jersey.

5. Defendant, JAMES E. GRIFFIN, resides at 215 North 15th Street, Kenilworth, New Jersey.

AS AND FOR A CAUSE OF ACTION

6. On August 20, 2010, defendant, PRECISION ELEVATORS, was the owner of a certain motor vehicle bearing New York license plate number XH439A.

7. On August 20, 2010, defendant, JAMES E. GRIFFIN, was operating the aforementioned motor vehicle owned by defendant, PRECISION ELEVATORS, with the knowledge, permission and consent of its owner, either expressed or implied, and/or in the course of business of its owner.

8. At all times hereinafter mentioned, Third Avenue at or near its intersection with East 50th Street, in the County, City and State of New York was and still is a public roadway.

9. On August 20, 2010, at approximately 10:00 A.M., the plaintiff, KARAH PREISS, was lawfully and rightfully operating her bicycle on Third Avenue at or near its intersection with East 50th Street in the County, City and State of New York.

10. On August 20, 2010, at approximately 10:00 A.M., the defendant, JAMES E. GRIFFIN, parked the aforesaid motor vehicle in the bus lane on Third Avenue at or near its intersection with East 50th Street in the County, City and State of New York.

11. On August 20, 2010 at approximately 10:00 A.M.; the defendant, JAMES E.



GRIFFIN, suddenly and without warning opened his driver's side door causing bicyclist KARAH PREISS to swerve out of the way and causing her to be struck by an MTA bus.

12. The defendants were negligent, careless and reckless in the operation, management and control of their motor vehicle; in operating the vehicle in a negligent, careless and reckless manner; in failing and omitting to provide and/or make timely and adequate use of signaling devices; in failing to give any signal or warning, in failing to keep a proper lookout; in failing to observe the plaintiff; in failing to give said plaintiff a reasonable opportunity to proceed to a place of safety, in suddenly opening the driver side door of the vehicle without warning; in failing to observe plaintiff before suddenly opening the driver side door of the vehicle; in violating provisions of the Vehicle and Traffic Laws of the State and City of New York; and in being otherwise reckless, careless and negligent in the operation and control of their motor vehicle.

13. As a result of the defendants' negligence, the plaintiff, KARAH PREISS, was seriously and permanently injured and was caused to suffer and will continue to suffer great physical and mental pain.

14. This action falls within one or more of the exceptions set forth in New York State C.P.L.R. Section 1602.

15. The plaintiff has sustained serious injuries as defined by Section 5102 of the Insurance Law of the State of New York.

16. By reason of the foregoing, plaintiff has been damaged in the sum of FIVE MILLION (\$5,000,000.00) DOLLARS.

WHEREFORE, plaintiff demands judgment against the defendants, PRECISION ELEVATORS and JAMES E. GRIFFIN, in the sum of FIVE MILLION (\$5,000,000.00) DOLLARS together with the costs and disbursements of this action.

Dated: New York, New York
September 22, 2010

Yours, etc.

SMILEY & SMILEY, LLP
Attorneys for Plaintiff
60 East 42nd Street, Suite 950
New York, New York 10165
212-986-2020

By: 

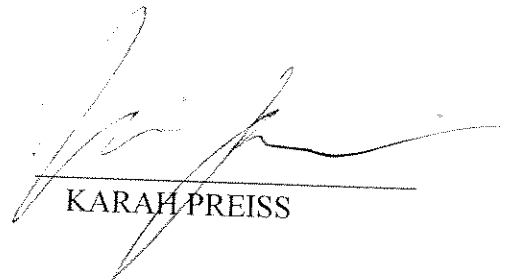
GUY I. SMILEY (GIS/5926)

KARAT PR

INDIVIDUAL VERIFICATION

STATE OF NEW YORK)
)SS:
COUNTY OF NEW YORK)

KARAH PREISS, being sworn say that I am the plaintiff in the action herein; I have read the annexed SUMMONS AND COMPLAINT and know the contents thereof; that the same is true of my own knowledge, except matters alleged upon information and belief, and that as to those matters I believe them to be true.


KARAH PREISS

Sworn to before me this
28 day of September, 2010


-NOTARY PUBLIC-

Notary Public, State of New York
My Comm. Expires 12/31/2011
2010

